

M. P. SHIFLET  
R. J. D'ARCY

IBLA 74-101

Decided March 18, 1974

Appeal from decision of California State Office (CA 576), Bureau of Land Management, rejecting an offer to lease for oil and gas.

Affirmed as modified.

Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Applications: Amendments--Oil and Gas Leases

Where an over-the-counter oil and gas lease offer does not indicate whether the parties making application are the sole parties in interest, and the offers are rejected, and when the required statement is subsequently submitted, the application earns priority from the time of filing the statement that they are the sole parties in interest.

APPEARANCES: M. P. Shiflet, pro se, and R. J. D'Arcy, pro se.

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

M. P. Shiflet and R. J. D'Arcy have appealed from the August 31, 1973, decision, CA 576, rendered by the California State Office, Bureau of Land Management, which rejected their oil and gas lease offer for certain lands in California. The State Office decision indicated that appellants failed to indicate on their application whether or not they were the sole parties in interest in the offer.

In their appeal, they contend that this failure was due to "\* \* \* a clerical error on the part of the typist and in our signing the lease we neglected to notice the empty spaces." They also certify in their appeal, filed September 14, 1973, that they "\* \* \*

are the sole interested parties in interest in this offer and lease, if issued."

The decision below was correct at the time of its rendition. However, as indicated further, the deficiency has been cured.

The oil and gas lease offer in issue is an over-the-counter lease offer. As such, it is distinguishable from simultaneously filed oil and gas lease offers, and it may have its deficiencies " \* \* \* cured by subsequent submission of the required material." R. C. Bailey, 7 IBLA 266, 268 (1972). Here the absent, yet requisite, material was whether or not appellants were the sole parties in interest. Having certified in this appeal that they are, such filing cured that deficiency in application CA 576, cf. Thomas Connell, 1/ 7 IBLA 328 (1972), and the offer, if otherwise valid, would gain priority from the time of the filing of the curative material. See William D. Sexton, 9 IBLA 316 (1973).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed as modified and remanded for further action.

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Frederick Fishman  
Administrative Judge

We concur:

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Edward W. Stuebing  
Administrative Judge

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Martin Ritvo  
Administrative Judge

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1/ Connell states as follows:

\* \* \* [O]fferors who filed their offers "over the counter" have been allowed to cure such deficiencies and earn priority from the date such curative material was received. R. C. Bailey et al., 7 IBLA 266 (1972); William E. Collins, 4 IBLA 8 (1971); T. E. Atkins, A-31164 (June 17, 1969); A. M. Shaffer, 73 I.D. 293 (1966); Timothy C. Lowry, A-30487 (March 16, 1966); Laurie B. Webb, A-30458 (November 30, 1965); Arthur H. Coates, A- 30426 (August 16, 1965); Andrew Cherpak, A-30323 (May 12, 1965).

